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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/752,345	01/06/2004	Luc Mainville	055189-0011	4226

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EXAMINER	
CHAPMAN, JEANETTE E	
ART UNIT	**PAPER NUMBER**
3633	

MAIL DATE	DELIVERY MODE
06/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/752,345	MAINVILLE, LUC	
	Examiner	Art Unit	
	Jeanette E. Chapman	3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4 and 5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-2, 4-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1,2,4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neubauer (5099748) in view of Notenboom (3653302) and Terwijn et al (6337459).

Claim 1.

Neubauer discloses a telescopic hoist comprising:

a series of tubular sections 12a-d, each successive tubular section of a smaller diameter and nested within each prior successive tubular section such that each tubular section has telescopically slidinq surfaces, each tubular section beinq open to ambient air near 10a at a first end thereof and closed by a piston head 16a on a second end thereof, and each piston head 16b , other than the piston head on an innermost tubular section, havinq with an opening 44a/39 for passage of a fluid under pressure through successive areas enclosed between two successive piston heads; and

wherein each piston head has a bore seal 28/32/31, each bore seal providing a sealing wall between the fluid on the second end of each tubular section 12b-d and the ambient air on the first end of each tubular section

and

Notenboom discloses the said tubular sections are formed in of steel, though not nitride steel but is known in the art that nitride steel provides extra ani corrosive properties to

the steel. Noten boom further discloses surfaces of walls of the steel tubular sections being in contact with one another as the tubular sections are telescopically displaced as a result of introduction of the fluid under pressure,

Terwijn et al discloses surface asperities on tubular steel section which combined with the base reference provides the surfaces providing formation of a film of the fluid on the telescopically sliding surfaces of the tubular sections.

It would have been obvious one of ordinary skill in the art to modify Neubauer to include steel roughened or asperities surface to protect the steel while enabling the fluid to move over the surfaces

claim 2.

Neubauer discloses a telescopic hoist, comprising:

a series of telescopically actuable tubular sections 12a-d, each successive tubular section of a smaller diameter and nested within each prior successive tubular section such that each tubular section has telescopically sliding surfaces; each tubular section being open to ambient air at a first end adjacent 10a thereof and each tubular section, other than the tubular section havinq the smallest diameter, closed on a second end at 16a thereof opposite the first end, by a piston head 16 having an opening, , for passage of a pressure fluid therethrough; and bore seals 28/31/32 between areas enclosed by two successive piston heads for separatinq the fluid on the second end from the ambient air on the first end;

Notenboom discloses the said tubular sections are formed in of steel, though not nitride steel but is known in the art that nitride steel provides extra anti corrosive properties to

the steel. Notenboom further discloses surfaces of walls of the steel tubular sections being in contact with one another as the tubular sections are telescopically displaced as a result of introduction of the fluid under pressure,

Terwijn et al discloses surface asperities on tubular steel section which combined with the base reference provides the surfaces providing formation of a film of the fluid on the telescopically sliding surfaces of the tubular sections.

It would have been obvious one of ordinary skill in the art to modify Neubauer to include steel roughened or asperities surface to protect the steel while enabling the fluid to move over the surfaces

claim 4.

Neubauer discloses a telescopic hoist, comprising: a cylindrical housing; a series of fluid pressure actuatable tubular sections 12a-d telescopically received in said housing, each successive tubular section of a smaller diameter and nested within each prior successive tubular section such that each tubular section has telescopically slidinq surfaces; each said tubular section being open to ambient air on a first end near 10a thereof and each tubular section, other than the tubular section havinq the smallest diameter, closed by a piston head 16a with an inlet port for passage of a pressure fluid therethrough; and

a bore seal 28/31/32mounted in each of said piston heads, for confining said fluid on the second end;

Notenboom discloses the said tubular sections are formed in of steel, though not nitride

steel but is known in the art that nitride steel provides extra anti corrosive properties to the steel. Noten boom further discloses surfaces of walls of the steel tubular sections being in contact with one another as the tubular sections are telescopically displaced as a result of introduction of the fluid under pressure,

Terwijn et al discloses surface asperities on tubular steel section which combined with the base reference provides the surfaces providing formation of a film of the fluid on the telescopically sliding surfaces of the tubular sections.

It would have been obvious one of ordinary skill in the art to modify Neubauer to include steel roughened or asperities surface to protect the steel while enabling the fluid to move over the surfaces

claim 5.

Neubauer discloses a bore seal telescopic hoist, operated by a fluid under pressure, comprising:

a series of tubular sections 12a-d; and a tubular housing with an open end near 10a to receive said series of tubular sections, said tubular sections being telescopically arranged in said tubular housing such that each successive tubular section is of a smaller diameter than the prior tubular section and nested within each prior successive tubular section such that each tubular section has telescopically slidinq surfaces, and such that said tubular sections are open to the atmosphere at a first end near 10a thereof and closed at a second end at 16a thereof opposite the first end thereof; wherein said series of tubular sections comprises an outermost tubular section 12a and at least two inner tubular sections12c , said outermost tubular section 12a having a

head 16b provided with a hydraulic inlet port 44a allowing a fluid to be introduced in a first area between said head and a piston head of an outermost one of said at least two inner tubular sections 12c, said outermost one of said at least two inner tubular sections having an opening allowing the fluid to be received in a second area enclosed between the piston head thereof and a piston head of a successive tubular section, each piston head being provided with a bore seal confining the fluid on the second end of the tubular sections, see figure 2a and accompanying text

Notenboom discloses the said tubular sections are formed in of steel, though not nitride steel but is known in the art that nitride steel provides extra ani corrosive properties to the steel. Noten boom further discloses surfaces of walls of the steel tubular sections being in contact with one another as the tubular sections are telescopically displaced as a result of introduction of the fluid under pressure,

Terwijn et al discloses surface asperities on tubular steel section which combined with the base reference provides the surfaces providing formation of a film of the fluid on the telescopically sliding surfaces of the tubular sections.

It would have been obvious one of ordinary skill in the art to modify Neubauer to include steel roughened or asperities surface to protect the steel while enabling the fluid to move over the surfaces

Applicant s arguments are moot in view of the new ground of rejection.

The declaration to Mainville filed 3/19/09 is moot given the new ground of rejection not involving the “538 patent

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JEANETTE CHAPMAN/
PRIMARY EXAMINER
ART UNIT 3633